

SENATE BILL No. 524

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1; IC 32-21-4-1.

Synopsis: Tax deeds and conveyance documents. Provides that when a county auditor sends out certain notices for a tax sale by certified mail, the notices must be sent by certified mail, return receipt requested. Requires that a verified petition for a tax deed to real property acquired in a tax sale must include copies of various notices sent by the petitioner, copies of certified mail receipts, copies of certified mail return receipts, and evidence used by the petitioner to ascertain the owner of property and any other persons with a substantial property interest of public record in the property. Provides that a tax deed is not prima facie evidence of the validity of a tax sale, if the petitioner for the tax deed fails to include with the petition the copies of notices, copies of mailing receipts, and copies or descriptions of the evidence used to ascertain the owner and other persons having a substantial property interest of public record in the property. Provides that a mortgage that does not comply with certain filing requirements is validly recorded, regardless of when the mortgage is recorded.

Effective: July 1, 2015.

Zakas

January 14, 2015, read first time and referred to Committee on Civil Law.



Introduced

First Regular Session 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

SENATE BILL No. 524

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-1.1-24-1, AS AMENDED BY THE TECHNICAL
2 CORRECTIONS BILL OF THE 2015 GENERAL ASSEMBLY, IS
3 AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]:
4 Sec. 1. (a) On or after January 1 of each calendar year in which a tax
5 sale will be held in a county and not later than fifty-one (51) days after
6 the first tax payment due date in that calendar year, the county treasurer
7 ~~(or county executive; in the case of property described in subdivision~~
8 ~~(2))~~ shall certify to the county auditor a list of real property on which
9 any of the following exist:
10 (1) ~~In the case of real property other than real property described~~
11 ~~in subdivision (2),~~ Any property taxes or special assessments
12 certified to the county auditor for collection by the county
13 treasurer from the prior year's spring installment or before are
14 delinquent as determined under IC 6-1.1-37-10 and the delinquent
15 property ~~tax or taxes,~~ special assessments, ~~penalties, fees, or~~
16 ~~interest~~ due exceed twenty-five dollars (\$25).



(2) In the case of real property for which a county executive has certified to the county auditor that the real property is:

(A) vacant; or

(B) abandoned;

any property taxes or special assessments from the prior year's fall installment or before that are delinquent as determined under IC 6-1.1-37-10. The county executive must make a certification under this subdivision not later than sixty-one (61) days before the earliest date on which application for judgment and order for sale may be made. The executive of a city or town may provide to the county executive of the county in which the city or town is located a list of real property that the city or town has determined to be vacant or abandoned. The county executive shall include real property included on the list provided by a city or town executive on the list certified by the county executive to the county auditor under this subsection.

~~(3)~~ (2) Any unpaid costs are due under section 2(b) of this chapter from a prior tax sale.

(b) The county auditor shall maintain a list of all real property eligible for sale. Except as provided in section 1.2 or another provision of this chapter, the taxpayer's property shall remain on the list. The list must:

(1) describe the real property by parcel number and common address, if any;

(2) for a tract or item of real property with a single owner, indicate the name of the owner; and

(3) for a tract or item with multiple owners, indicate the name of at least one (1) of the owners.

(c) Except as otherwise provided in this chapter, the real property so listed is eligible for sale in the manner prescribed in this chapter.

(d) Not later than fifteen (15) days after the date of the county treasurer's certification under subsection (a), the county auditor shall mail by certified mail, **return receipt requested**, a copy of the list described in subsection (b) to each mortgagee who requests from the county auditor by certified mail a copy of the list. Failure of the county auditor to mail the list under this subsection does not invalidate an otherwise valid sale.

SECTION 2. IC 6-1.1-24-4.6, AS AMENDED BY P.L.89-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4.6. (a) On the day on which the application for judgment and order for sale is made, the county treasurer shall report to the county auditor all of the tracts and real property listed in the



notice required by section 2 of this chapter upon which all delinquent taxes and special assessments, all penalties due on the delinquencies, any unpaid costs due from a prior tax sale, and the amount due under section 2(a)(3)(D) of this chapter have been paid up to that time. The county auditor, assisted by the county treasurer, shall compare and correct the list, removing tracts and real property for which all delinquencies have been paid, and shall make and subscribe an affidavit in substantially the following form:

State of Indiana)
) ss

County of _____)

I, _____, treasurer of the county of _____, and
I, _____, auditor of the county of _____, do
solemnly affirm that the foregoing is a true and correct list of the real
property within the county of _____ upon which have remained
delinquent uncollected taxes, special assessments, penalties and costs,
as required by law for the time periods set forth, to the best of my
knowledge and belief.

County Treasurer

County Auditor

Dated _____

I, _____, auditor of the county of _____, do
solemnly affirm that notice of the application for judgment and order
for sale was mailed via certified mail, **return receipt requested**, to the
owners on the foregoing list, and publication made, as required by law.

County Auditor

Dated _____

(b) Application for judgment and order for sale shall be made as one
(1) cause of action to any court of competent jurisdiction jointly by the
county treasurer and county auditor. The application shall include the
names of at least one (1) of the owners of each tract or item of real
property, the dates of mailing of the notice required by sections 2 and
2.2 of this chapter, the dates of publication required by section 3 of this
chapter, and the affidavit and corrected list as provided in subsection
(a).

(c) Any defense to the application for judgment and order of sale
shall be filed with the court on or before the earliest date on which the
application may be made as set forth in the notice required under
section 2 of this chapter. The county auditor and the county treasurer



for the county where the real property is located are entitled to receive all pleadings, motions, petitions, and other filings related to a defense to the application for judgment and order of sale.

SECTION 3. IC 6-1.1-25-4.5, AS AMENDED BY P.L.66-2014, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4.5. (a) Except as provided in subsection (d), a purchaser or the purchaser's assignee is entitled to a tax deed to the property that was sold only if:

(1) the redemption period specified in section 4(a)(1) of this chapter has expired;

(2) the property has not been redeemed within the period of redemption specified in section 4(a) of this chapter; and

(3) not later than six (6) months after the date of the sale:

(A) the purchaser or the purchaser's assignee; or

(B) in a county where the county auditor and county treasurer have an agreement under section 4.7 of this chapter, the county auditor;

gives notice of the sale to the owner of record at the time of the sale and any person with a substantial property interest of public record in the tract or **item of** real property.

(b) A county executive is entitled to a tax deed to property on which the county executive acquires a lien under IC 6-1.1-24-6 and for which the certificate of sale is not sold under IC 6-1.1-24-6.1 only if:

(1) the redemption period specified in section 4(b) of this chapter has expired;

(2) the property has not been redeemed within the period of redemption specified in section 4(b) of this chapter; and

(3) not later than ninety (90) days after the date the county executive acquires the lien under IC 6-1.1-24-6, the county auditor gives notice of the sale to:

(A) the owner of record at the time the lien was acquired; and

(B) any person with a substantial property interest of public record in the tract or **item of** real property.

(c) A purchaser of a certificate of sale under IC 6-1.1-24-6.1 is entitled to a tax deed to the property for which the certificate was sold only if:

(1) the redemption period specified in section 4(c) of this chapter has expired;

(2) the property has not been redeemed within the period of redemption specified in section 4(c) of this chapter; and

(3) not later than ninety (90) days after the date of sale of the certificate of sale under IC 6-1.1-24, the purchaser gives notice of



the sale to:

(A) the owner of record at the time of the sale; and

(B) any person with a substantial property interest of public record in the tract or **item of** real property.

(d) The person required to give the notice under subsection (a), (b), or (c) shall give the notice by sending a copy of the notice by certified mail, **return receipt requested**, to:

(1) the owner of record at the time of the:

(A) sale of the property;

(B) acquisition of the lien on the property under IC 6-1.1-24-6; or

(C) sale of the certificate of sale on the property under IC 6-1.1-24;

at the last address of the owner for the property, as indicated in the records of the county auditor; and

(2) any person with a substantial property interest of public record at the address for the person included in the public record that indicates the interest.

However, if the address of the person with a substantial property interest of public record is not indicated in the public record that created the interest and cannot be located by ordinary means by the person required to give the notice under subsection (a), (b), or (c), the person may give notice by publication in accordance with IC 5-3-1-4 once each week for three (3) consecutive weeks.

(e) The notice that this section requires shall contain at least the following:

(1) A statement that a petition for a tax deed will be filed on or after a specified date.

(2) The date on or after which the petitioner intends to petition for a tax deed to be issued.

(3) A description of the tract or **item of** real property shown on the certificate of sale.

(4) The date the tract or **item of** real property was sold at a tax sale.

(5) The name of the:

(A) purchaser or purchaser's assignee;

(B) county executive that acquired the lien on the property under IC 6-1.1-24-6; or

(C) person that purchased the certificate of sale on the property under IC 6-1.1-24.

(6) A statement that any person may redeem the tract or **item of** real property.



(7) The components of the amount required to redeem the tract or **item of** real property.

(8) A statement that an entity identified in subdivision (5) is entitled to reimbursement for additional taxes or special assessments on the tract or **item of** real property that were paid by the entity subsequent to the tax sale, lien acquisition, or purchase of the certificate of sale, and before redemption, plus interest.

(9) A statement that the tract or **item of** real property has not been redeemed.

(10) A statement that an entity identified in subdivision (5) is entitled to receive a deed for the tract or **item of** real property if it is not redeemed before the expiration of the period of redemption specified in section 4 of this chapter.

(11) A statement that an entity identified in subdivision (5) is entitled to reimbursement for costs described in section 2(e) of this chapter.

(12) The date of expiration of the period of redemption specified in section 4 of this chapter.

(13) A statement that if the property is not redeemed, the owner of record at the time the tax deed is issued may have a right to the tax sale surplus, if any.

(14) The street address, if any, or a common description of the tract or **item of** real property.

(15) The key number or parcel number of the tract or **item of** real property.

(f) The notice under this section must include not more than one (1) tract or item of real property listed and sold in one (1) description. However, when more than one (1) tract or item of real property is owned by one (1) person, all of the tracts or real property that are owned by that person may be included in one (1) notice.

(g) A single notice under this section may be used to notify joint owners of record at the last address of the joint owners for the property sold, as indicated in the records of the county auditor.

(h) The notice required by this section is considered sufficient if the notice is mailed to the address required under subsection (d).

(i) The notice under this section and the notice under section 4.6 of this chapter are not required for persons in possession not shown in the public records.

(j) If the purchaser fails to:

(1) comply with subsection (c)(3); or

(2) petition for the issuance of a tax deed within the time permitted under section 4.6(a) of this chapter;



the certificate of sale reverts to the county executive and may be retained by the county executive or sold under IC 6-1.1-24-6.1.

SECTION 4. IC 6-1.1-25-4.6, AS AMENDED BY P.L.66-2014, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4.6. (a) After the expiration of the redemption period specified in section 4 of this chapter but not later than three (3) months after the expiration of the period of redemption:

(1) the purchaser, the purchaser's assignee, the county executive, or the purchaser of the certificate of sale under IC 6-1.1-24 may; or

(2) in a county where the county auditor and county treasurer have an agreement under section 4.7 of this chapter, the county auditor shall, upon the request of the purchaser or the purchaser's assignee;

file a verified petition **in accordance with subsection (b)** in the same court and under the same cause number in which the judgment of sale was entered asking the court to direct the county auditor to issue a tax deed if the real property is not redeemed from the sale. Notice of the filing of this petition shall be given to the same parties and in the same manner as provided in section 4.5 of this chapter, except that, if notice is given by publication, only one (1) publication is required. The notice required by this section is considered sufficient if the notice is sent to the address required by section 4.5(d) of this chapter. Any person owning or having an interest in the tract or **item of** real property may file a written objection to the petition with the court not later than thirty (30) days after the date the petition was filed. If a written objection is timely filed, the court shall conduct a hearing on the objection.

(b) A verified petition filed under subsection (a) must include the following:

(1) Copies of all notices sent under section 4.5 of this chapter.

(2) Copies of all notices sent under this section.

(3) Copies of all certified mail receipts and certified mail return receipts for notices sent under section 4.5 of this chapter.

(4) Copies of all certified mail receipts for notices sent under this section.

(5) Copies or descriptions of the evidence used by the petitioner or the petitioner's assignor to identify the owner and other persons with a substantial property interest of public record in the real property.

Failure to include the documents described in subdivisions (1) through (4) prevents the issuance of a tax deed from constituting



prima facie evidence of the validity of the sale.

~~(b)~~ (c) Not later than sixty-one (61) days after the petition is filed under subsection (a), the court shall enter an order directing the county auditor (on the production of the certificate of sale and a copy of the order) to issue to the petitioner a tax deed if the court finds that the following conditions exist:

(1) The time of redemption has expired.

(2) The tract or **item of** real property has not been redeemed from the sale before the expiration of the period of redemption specified in section 4 of this chapter.

(3) Except with respect to a petition for the issuance of a tax deed under a sale of the certificate of sale on the property under IC 6-1.1-24-6.1 or IC 6-1.1-24-6.8, or with respect to penalties described in section 4(k) of this chapter, all taxes and special assessments, penalties, and costs have been paid.

(4) The notices required by this section and section 4.5 of this chapter have been given.

(5) The petitioner has complied with all the provisions of law entitling the petitioner to a deed.

The county auditor shall execute deeds issued under this subsection in the name of the state under the county auditor's name. If a certificate of sale is lost before the execution of a deed, the county auditor shall issue a replacement certificate if the county auditor is satisfied that the original certificate existed.

~~(c)~~ (d) Upon application by the grantee of a valid tax deed in the same court and under the same cause number in which the judgment of sale was entered, the court shall enter an order to place the grantee of a valid tax deed in possession of the real estate. The court may enter any orders and grant any relief that is necessary or desirable to place or maintain the grantee of a valid tax deed in possession of the real estate.

~~(d)~~ (e) Except as provided in subsections ~~(c)~~ (f) and ~~(f)~~ (g), if:

(1) the verified petition referred to in subsection (a) is timely filed; and

(2) the court refuses to enter an order directing the county auditor to execute and deliver the tax deed because of the failure of the petitioner under subsection (a) to fulfill the notice requirement of subsection (a);

the court shall order the return of the amount, if any, by which the purchase price exceeds the minimum bid on the property under IC 6-1.1-24-5 minus a penalty of twenty-five percent (25%) of that excess. The petitioner is prohibited from participating in any manner in the next succeeding tax sale in the county under IC 6-1.1-24. The



1 county auditor shall deposit penalties paid under this subsection in the
2 county general fund.

3 ~~(e)~~ **(f)** Notwithstanding subsection ~~(d)~~, **(e)**, in all cases in which:

4 (1) the verified petition referred to in subsection (a) is timely
5 filed;

6 (2) the petitioner under subsection (a) has made a bona fide
7 attempt to comply with the statutory requirements under
8 subsection ~~(b)~~ **(c)** for the issuance of the tax deed but has failed
9 to comply with these requirements;

10 (3) the court refuses to enter an order directing the county auditor
11 to execute and deliver the tax deed because of the failure to
12 comply with these requirements; and

13 (4) the purchaser, the purchaser's successors or assignees, or the
14 purchaser of the certificate of sale under IC 6-1.1-24 files a claim
15 with the county auditor for refund not later than thirty (30) days
16 after the entry of the order of the court refusing to direct the
17 county auditor to execute and deliver the tax deed;

18 the county auditor shall not execute the deed but shall refund the
19 purchase money minus a penalty of twenty-five percent (25%) of the
20 purchase money from the county treasury to the purchaser, the
21 purchaser's successors or assignees, or the purchaser of the certificate
22 of sale under IC 6-1.1-24. The county auditor shall deposit penalties
23 paid under this subsection in the county general fund. All the
24 delinquent taxes and special assessments shall then be reinstated and
25 recharged to the tax duplicate and collected in the same manner as if
26 the property had not been offered for sale. The tract or item of real
27 property, if it is then eligible for sale under IC 6-1.1-24, shall be placed
28 on the delinquent list as an initial offering under IC 6-1.1-24.

29 ~~(f)~~ **(g)** Notwithstanding subsections ~~(d)~~ **(e)** and ~~(e)~~, **(f)**, the court
30 shall not order the return of the purchase price or any part of the
31 purchase price if:

32 (1) the purchaser or the purchaser of the certificate of sale under
33 IC 6-1.1-24 has failed to provide notice or has provided
34 insufficient notice as required by section 4.5 of this chapter; and
35 (2) the sale is otherwise valid.

36 ~~(g)~~ **(h)** A tax deed executed under this section vests in the grantee
37 an estate in fee simple absolute, free and clear of all liens and
38 encumbrances created or suffered before or after the tax sale except
39 those liens granted priority under federal law, and the lien of the state
40 or a political subdivision for taxes and special assessments that accrue
41 subsequent to the sale. However, the estate is subject to all easements,
42 covenants, declarations, and other deed restrictions and laws governing



land use, including all zoning restrictions and liens and encumbrances created or suffered by the purchaser at the tax sale. The deed is prima facie evidence of:

- (1) the regularity of the sale of the real property described in the deed;
- (2) the regularity of all proper proceedings; and
- (3) valid title in fee simple in the grantee of the deed.

~~(h)~~ (i) A tax deed issued under this section is incontestable except by appeal from the order of the court directing the county auditor to issue the tax deed filed not later than sixty (60) days after the date of the court's order.

SECTION 5. IC 6-1.1-25-9, AS AMENDED BY P.L.169-2006, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 9. (a) When a county acquires title to real property under IC 6-1.1-24 and this chapter, the county executive may dispose of the real property under IC 36-1-11 or subsection (e). The proceeds of any sale under IC 36-1-11 shall be applied as follows:

(1) First, to the cost of the sale or offering for sale of the real property, including the cost of:

- (A) maintenance;
- (B) preservation;
- (C) administration of the property before the sale or offering for sale of the property;
- (D) unpaid costs of the sale or offering for sale of the property;
- (E) preparation of the property for sale;
- (F) advertising; and
- (G) appraisal.

(2) Second, to any unrecovered cost of the sale or offering for sale of other real property in the same taxing district acquired by the county under IC 6-1.1-24 and this chapter, including the cost of:

- (A) maintenance;
- (B) preservation;
- (C) administration of the property before the sale or offering for sale of the property;
- (D) unpaid costs of the sale or offering for sale of the property;
- (E) preparation of the property for sale;
- (F) advertising; and
- (G) appraisal.

(3) Third, to the payment of the taxes on the real property that were removed from the tax duplicate under section 4(c) of this chapter.

(4) Fourth, any surplus remaining into the county general fund.



(b) The county auditor shall file a report with the board of commissioners before January 31 of each year. The report must:

(1) list the real property acquired under IC 6-1.1-24 and this chapter; and

(2) indicate if any person resides or conducts a business on the property.

(c) The county auditor shall mail a notice by certified mail, **return receipt requested**, before March 31 of each year to each person listed in subsection (b)(2). The notice must state that the county has acquired title to the tract the person occupies.

(d) If the county executive determines that any real property acquired under this section should be retained by the county, then the county executive shall not dispose of the real property. The county executive may repair, maintain, equip, alter, and construct buildings upon the real property so retained in the same manner prescribed for other county buildings.

(e) The county executive may transfer title to real property described in subsection (a) to the redevelopment commission at no cost to the commission for sale, grant, or other disposition under IC 36-7-14-22.2, IC 36-7-14-22.5, IC 36-7-15.1-15.1, IC 36-7-15.1-15.2, or IC 36-7-15.1-15.5.

(f) If the real property is located in a geographic area that is not served by a redevelopment commission and the county executive determines that any real property acquired under this section should be held for later sale or transfer by the county executive, the county executive shall wait until an appropriate time to dispose of the real property. The county executive may do the following:

(1) Examine, classify, manage, protect, insure, and maintain the property being held.

(2) Eliminate deficiencies (including environmental deficiencies), carry out repairs, remove structures, make improvements, and control the use of the property.

(3) Lease the property while it is being held.

The county executive may enter into contracts to carry out part or all of the functions described in subdivisions (1) through (3).

SECTION 6. IC 32-21-4-1, AS AMENDED BY P.L.94-2014, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 1. (a) The following must be recorded in the recorder's office of the county where the land is situated:

(1) A conveyance or mortgage of land or of any interest in land.

(2) A lease for more than three (3) years.

(b) A conveyance, mortgage, or lease takes priority according to the



1 time of its filing. The conveyance, mortgage, or lease is fraudulent and
2 void as against any subsequent purchaser, lessee, or mortgagee in good
3 faith and for a valuable consideration if the purchaser's, lessee's, or
4 mortgagee's deed, mortgage, or lease is first recorded.

5 (c) **This subsection applies regardless of when a mortgage is**
6 **recorded. If:**

7 (1) an instrument referred to in subsection (a) is recorded; and

8 (2) the instrument does not comply with the:

9 (A) requirements of:

10 (i) IC 32-21-2-3; or

11 (ii) IC 32-21-2-7; or

12 (B) technical requirements of IC 36-2-11-16(c);

13 the instrument is validly recorded and provides constructive notice of
14 the contents of the instrument as of the date of filing.

